the things a Labor Department is there for—to make sure people are rewarded for their labor; that people who work with their hands, people who work with their brains are compensated for the fruits of their labor. It is such an American success story, of people working hard, getting ahead and being compensated for what they do and sharing in the wealth they create for their employer through pay and benefits.

That doesn't seem to be the way 40 Members of this body look at the world. The Solicitor of Labor is the third-ranking leader at the Department of Labor. She will be charged, if confirmed, with enforcing the full scope of the Federal laws protecting labor rights and employment rights. These are not trivial matters. They are important protections that reflect core American values: fair hiring practices, safe working conditions, retirement security, and the payment of wages and benefits rightfully earned.

Let me give an example: There has been a practice in northeast Ohio—and across the country, we find out—where, when you go to a restaurant and you don't pay your bill and you walk out of the restaurant, in many cases it is the person who waited on your table who ends up paying the bill. If you skip out on your bill—as has happened more and more and more in this recession—it is not management who eats the cost, it is typically the worker, the waiter, the waitress, the server who eats that cost.

There are two cases—one in Columbus—where I believe it was a waitress, in this case, who chased a person out of the restaurant who didn't pay their bill and she was hit by a car and is paralyzed. There was a case in Texas where a server chased someone who didn't pay the bill out to the parking lot and was hit by a car and was killed.

The reason they do that is they are trying to make the patron behave and do the right thing, but they paid the ultimate price for that. You know why? Because the Department of Labor has not enforced laws that protect that worker. Those are just two examples—one in Columbus and one, I believe, in Dallas or somewhere in Texas.

There are only a few people who I am aware of who have expressed any concerns over Commissioner Smith's nomination. The Commissioner will enforce these rules that simply aren't being enforced—and were not enforced during the 8 years of the previous administration, which almost always sided with management over any real labor concerns—over wages, over safety, over worker concerns.

A handful of Republicans have voiced opposition due to supposed discrepancies in Commissioner Smith's testimony before the Health, Education, Labor, and Pensions Committee. They disingenuously cite her statements regarding a small pilot program that constituted $6,000 of the Department's $11 billion budget. In response to written questions, Commissioner Smith clarified her statements to the full satisfaction of Chairman HARKIN.

Despite this, Republicans on the HELP Committee have held up the nomination process. Again, it has been 1 year and she is not sitting there yet—1 year of Republicans saying no, of blocking things, of obstruction. They have gone so far as to call for the withdrawal of the nomination altogether.

It is irresponsible to cause a lengthy delay for a position that is so important. This isn't an inconsequential position that doesn't matter. It is a position that affects workers' rights, that affects workers' pay, that affects workers' ability to be part of the middle class. This position is particularly critical to the needs of workers in this country.

We all know, in the last 10 years, until this recession, profits generally were up, the economy was growing—until this recession, until 2007—yet workers' wages didn't keep up. Part of the reason is because we had a Labor Department that simply didn't care about enforcing these rules. We have a responsibility to provide leadership at the highest level to ensure American workers of their right to an honest day's work.

I am pleased the President has nominated a candidate who is as well-qualified as Patricia Smith to be our Nation's next Solicitor of Labor. She previously served as the New York attorney general's labor bureau chief, where she argued and won two cases before the U.S. Supreme Court.

Her tenure as commissioner has come at a difficult period. Yet she has met the challenge with great professionalism and dedication. She has garnered support in New York State, where she worked in both the business and labor communities. The Business Council of New York State—not exactly the State AFL–CIO—said her record shows her to be ''thorough, fair, and judicious in the use of the tools at her disposal to ensure compliance with New York's labor law.''

Local chambers of commerce have also expressed their support, saying they ''have enjoyed not only attention and engagement from Patricia Smith, but a genuine working partnership.''

She has received commendations while serving under both Democratic and Republican administrations. One Republican New York Senator observed that she ''has worked in a positive, bipartisan manner.'' The New York congressional delegation—both parties—unanimously supports her.

Yet 40 Republicans have again said no and tried to block what we are trying to do, what the President simply wants to do—to fill this position.

Let me conclude with a short story. Today, I was at Hugo Boss, which is a clothing manufacturer in Cleveland, OH. It is actually Brooklyn, a suburb of Cleveland. This Hugo Boss plant is one of the last manufacturing companies of men's suits, pants, and sport coats in the United States. It is Hugo Boss's last manufacturing plant. Hugo Boss has said this is a profitable operation. Hugo Boss is a German company. This is a profitable operation in greater Cleveland making suits, but they say they would make more if they moved their production to Turkey, and that is what they are going to do.

I met with some of the 400 workers today. They make no more than $15 an hour, many less than that. They are paid pretty good benefits. It is one more case where our trade laws and tax laws undercut manufacturing. These are jobs that barely get their workers to the middle class. A lot of husbands and wives both work at Hugo Boss, so I am hopeful they change their mind. At the same time, Hugo Boss says they are expanding their operations in the United States, but those operations are in the sales force. They are going to open more stores in the United States. They are expanding their sales force, but they have decided to eliminate production in the United States.

Again, this is happening not because they are not making a profit in Cleveland but because they can make a bigger profit in Turkey. I think this illustrates, again, that it is time our government—whether it is enforcement of our labor laws with Patricia Smith or trade agreements and tax laws—comes down on the side of the workers, comes down on the side of communities. We know what this will mean for Cleveland, OH, in terms of taxes. We know what it will mean for those 400 workers. We know what it will mean for those families. It is not good for anybody. It is important that at least we speak today in support of Patricia Smith, to show that this body will stand for workers and do the right thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. I ask to be recognized for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNINTENDED CONSEQUENCES OF WELL-INTENDED REGULATION

Mr. ISAKSON. Mr. President, I rise tonight following on the heels of three more bank closings in my State last Friday; not new banks, one of them over 60 years old, one of them over 100 years old. I want to talk for a few minutes tonight about the unintended consequences of well-intended regulation.

We are now going into the 26th month of the current recession. This will arguably be the longest recession post-World War II America has experienced. I can tell you from having gone through four of the recessions post-1960, this is by far the worst of anything that we experienced. We are at a point where we have to make some good, solid decisions, but we have to help our economy, help our businesses, and help our financial institutions.

Don't get me wrong at the outset. I am not talking about waiving or dispensing or looking the other way. I am not talking about loosie-goosie regulation which got us into the mess we are in: shoddy underwriting and poor credit. But what I am talking about are realistic approaches to difficult problems and looking to our past to understand the answers for our future.

I wish to talk about rule 114, which is called mark to market. Mark to market is where an appraisal of an asset held by a bank is appraised at what it would sell for today, and in many cases because of a difficult real estate market, in both commercial and residential, those values are dramatically depressed, in most cases below the loan that is against them. So the asset deteriorates, the asset side of the balance sheet of the bank deteriorates, and you have difficult problems.

In the late 1980s and early 1990s we had a similar period of time. We had something called the Resolution Trust Corporation, the RTC. It was kind of a bad bank that took all the assets of the failed savings and loans around the United States. We waived mark to market for 3 years. We had a 3-year moratorium so the banking institutions and their regulators could deal with loans in a practical, pragmatic way rather than Draconian, rigid application of mark to market.

Second, we have to consider doing something on the appraisal rules that have been passed down. I have talked to our Secretary of HUD on this matter, and I intend to talk to him more about it. I was in Clayton County, GA, south of Atlanta, just 2 weeks ago, a county that has been hit hard by the housing recession, a county where values are 42 percent below what they were in 2006. That is a significant decline.

I talked to one realtor after another and one lender after another who told me the interesting thing that has happened. With the new appraisal regulations, the appraisals on these houses when they sell at a short sale or foreclosure are coming in at exceedingly low values. But when the people have to get their homeowners insurance to insure the house, they are having to insure the house for more than they paid for it. Why? Because you can buy houses in Georgia today or around the country for less than what it costs to replace them.

When I entered the business in the 1960s, cost to replace was the principal way real estate was evaluated. Later, comparable sales took over cost to replace. I think it is time we look at cost to replace becoming the primary mechanism for establishing lending and insurance purposes.

The short sale situation is another problem. It has taken banks in some cases 10 to 12 months to give somebody an answer on a short sale. A short sale, for those listening, is when you have a house and you are in default, you can't pay your loan but it is not in foreclosure yet, you find a buyer who can pay 80 cents on the dollar.

Say you owe $100,000, and they can pay $80,000. You go to your bank and say: Will you take $80,000 and forgive the $20,000 and let me sell this property rather than foreclose it? Banks are reluctant to make decisions and most of the time, therefore, they didn't. Those houses they could have sold on a short sale go into foreclosure. When they go into foreclosure, more often than not they are vandalized. Their value declines 1, 2, 3 percent a month and the house comes out at an even lower value.

To show you the value of some well-intended regulation, I want to commend the Treasury because last week the Treasury issued a ruling to banks that received TARP money that they must respond within 10 days on any short sale offer on a mortgage that bank holds. We are going to see a remarkable change in Denver, in Atlanta, in Houston, and a lot of other places. We are going to see some sales that have not been taking place start to take place. We are going to see some inventory reabsorbed. I commend the Treasury on their good approach to short sales.

I wish to talk a minute about loss-share. The FDIC has come up with a loss-share proposal for the banks that take the troubled assets of banks that have failed. FDIC says: If you will take these assets, we will guarantee the most you can lose is 20 percent on the value. We will cover the other 80. But to make sure we do not get in worse trouble, you cannot extend credit beyond 10 percent of the debt owed to the borrower.

The problem with that is a lot of these assets are, in fact, performing, but they have not been completed yet. To complete the asset so it begins to pay back, sometimes you have to extend credit beyond 10 or 15 or 20 percent. To have an absolute rule that you cannot is causing loans to go bad or to go unfunded that otherwise should have been funded.

In 1974, we went through a housing recession as deep and as problematic as the one today. Foreclosures were every bit as rampant—maybe not as big in numbers but as rampant and as difficult. As is beginning to happen now, the commercial loans began to fail in 1975.

An interesting thing happened around the country. Commercial lenders and the regulators recognized very quickly if they foreclosed on commercial loans like they had foreclosed on residential loans, the banking system would collapse; the asset side of almost all banks would collapse. So what they decided to do was encourage banks to work out these assets by going to the developer who was in trouble, who owed the money, and say: I'll tell you what. If you deed this property back to us in lieu of foreclosure and then let us hire you on an earned-out process so we can develop our way out of this debt rather than foreclose ourselves into a loss—and more often than not, probably three out of every four transactions, it happened.

The house I live in today I built on a lot I bought in a subdivision that had been taken back by the C&S National Bank. They had hired the developer to do a workout. I bought it at a good price and later did most of the sales in the development. It became a great development, and the bank eventually was made whole. The bank would have lost lots of money if they had to take that thing and foreclose on it and had not worked it out.

I encourage our regulators to give the great American ingenuity and entrepreneurship the chance to work. Sure, some of these people are in trouble, but there are avenues outside of that trouble.

There has been a lot of talk about taxing banks that receive TARP money. I want to address that for a second because, the best I can tell, every bank that has received TARP money is paying it back at a 5-percent dividend. We are making a profit. The only people who have not paid it back are GM and Chrysler, who probably never will. But if we put that much more of a burden on top of the people who are paying us, and paying a premium when we have a banking system under stress and duress, it is only making it more and more impossible for them to stay in business, for them to be vibrant and come back to bring credit to our communities.

On that point, with mark to market enforced at a Draconian rate, with appraisal rules driving down the values of properties that are financed by the banks, with the regulatory environment being so stiff to recognize losses and deteriorate the balance sheet, there is not any credit for small business to speak of.

We are making a recession that is deep, that is broad, and that is pervasive worse because of the unintended consequences of well-intended regulation.

Last, I have enjoyed working with Senator KAUFMAN so much over this issue of short sales that I just want to put in one more plug for what we plugged in this entire session and encourage the SEC. In the collapse that took place in the markets, one of the things that went out of hand was the short selling of financial stocks to terrible lows. That short selling took place in large measure because there was no uptick rule, which was the old rule that was good for years on the stock market that once you had a declining value in the stock, if it ticked up on a trade, you stopped the short selling from continuing to take place.

We need the SEC to revisit it. They took 30 days a year and a half ago and suspended it and it helped, but we don't need those speculating in the marketplace to take unfair advantage of the values of equities that are owned by Americans all over this country for the sake of making a buck on a short sale.

My remarks are very simple. There are unintended consequences to regulation, and we need to start looking at the cause and effect. Where we can find opportunities for banks to work out, for mark to market to be suspended, for appraisals to be based on cost to replace rather than comparable sales, we will begin to give the flexibility to the banking system to begin to recover, to stop the losses, stop the failures and, over time, recover our economy.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania is recognized.

(The remarks of Mr. CASEY pertaining to the introduction of S. 2973 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CASEY. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CASEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING THE CAMPBELLSVILLE LADY TIGERS

Mr. MCCONNELL. Mr. President, I rise today to congratulate the Campbellsville University Lady Tigers volleyball team, winners of the first national title for a team sport in that university's history. On December 5, 2009, the Lady Tigers swept the top-seeded Mount Vernon Nazarene University Cougars in three sets to win the National Christian College Athletic Association, NCCAA, Division I Women's Volleyball National Championship.

The Lady Tigers' winning championship game capped an eight-match win streak through the NCCAA Mid-East Regional Tournament and the NCCAA National Tournament. Every player on the team contributed to this victory. The members of this championship team are Shannon Cahill, Lilian Da Silva, Caitlin Dresing, Whitney Haynes, Samantha James, Jovana Koprivicia, Brooke Marcum, Caroline Martin, Renee Netherton, Lilian Odek, and Christiana Sindelar.

Two players also notched career highs on the way to this national championship. Senior Jovana Koprivicia of Serbia passed the 1,000 dig mark early this season, proving her a crucial part of this team's defense.

Senior Renee Netherton of Louisville, KY, passed the 1,000 kill mark for her career in the final national championship match. Each one of those kills represents a point for the Lady Tigers that kept them on their march to victory.

Winning the NCCAA national championship is obviously one of the greatest thrills of these girls' lifetimes. "I'm a little nervous to take my uniform off, because once I do it's over," senior Renee Netherton said. "I'm excited we went out so strong. It's such a great feeling to be able to picture that last hit in my head. That's going to stay with me forever."

Success came often to the Lady Tigers this season. They finished second in the Mid-South Conference, won the NCCAA Mid-East Region, and received votes in both the National Association of Intercollegiate Athletics, NAIA, and NCCAA national polls all season.

Head coach Randy LeBleu not only saw his team win the championship, he also was named the NCCAA Division I Coach of the Year. He coached the Lady Tigers to 38–13 overall, a program record for wins in a season. This was his fifth and final season as the Lady Tigers' head coach; he finishes with a 172–52 career record. Assistant coach Amy Eckenfels, who played a key role in bringing this team to the championship, will take over as head coach next season.

Founded in 1906, Campbellsville University has a tradition of teaching academic excellence, instilling a love of life-long learning, and nurturing an environment of Christian fellowship. Attracting students from 97 Kentucky counties, 30 States and 37 foreign nations, they have a student body of 3,000 and enrollment is increasing. Kentucky is grateful for the presence and the rewards of Campbellsville University.

I ask my colleagues to join me in congratulating the Campbellsville Lady Tigers for their impressive season and for being the NCCAA Division I Women's Volleyball National Champions. Surely much success lies ahead for the members of this winning team.

Mr. BUNNING. Mr. President, I rise today in the Senate to pay tribute to the Campbellsville University Lady Tigers of Campbellsville, KY. On December 5, 2009, the Lady Tigers Volleyball team won the National Christian College Athletic Association Division I Women's Volleyball National Championship in Kissimmee, FL.

For the coaches and young women on this team, this is not just a trophy; it is an affirmation that anything is possible with hard work and determination. These young women defeated the top-seeded Mount Vernon Nazarene University to complete an eight-match win streak. Furthermore, this national title is the first national team title for Campbellsville University. Every single player on the team contributed to this remarkable feat and several individual records were set. The Lady Tigers finished the season with a 38–13 overall record.

Not only are these young women excellent athletes, they also exemplify the great academic tradition of Campbellsville University. To earn this national title while measuring up to the high academic standards of Campbellsville University shows the dedication and work ethic these women possess.

I am very proud of the accomplishments these young women have made. I now ask my colleagues to join me in congratulating the members and coaching staff of the Lady Tigers for their success. Campbellsville University and the Commonwealth of Kentucky are fortunate to have such distinguished representation. These young women are role models for all student athletes.

BLACK HISTORY MONTH

Mr. UDALL of Colorado. Mr President, I rise to acknowledge the great contributions of Colorado's African-American community in celebration of Black History Month.

Colorado's African-American community has a long history in our State. From the days of its settlement to modern times, Colorado has benefited from the Black community's hard work and dedication to making Colorado a better place to live.

In contemporary times, we often forget about the diversity of settlers that moved West during the expansion of the United States. But, Black settlers played an active and productive role in the formation of the American West. Many of these settlers found their freedom by moving West and became entrepreneurs, traders, and leaders that helped in the formation of Colorado as a territory and State. Names of early African-American westerners, such as James Beckwourth and "Aunt" Clara Brown, echo through Colorado history.

James Beckwourth was a true frontiersman, leading expeditions into Colorado's Rocky Mountains in the 1820s and returning later in the 1830s to serve at Fort Vasquez near Denver. In the 1840s, he cofounded a fort and settlement named Pueblo so he could enter the lucrative trade business along the Santa Fe Trail. This settlement eventually became the city of Pueblo and still serves as a commercial hub for southeast Colorado.

"Aunt" Clara Brown is another strong African-American figure who fled slavery to establish an independent life in the West. When she reached Colorado in the 1860s, she found a place that rewarded hard work. She earned her living laundering the clothes of miners in Central City and served her community by helping others in need regardless of their race. She was a woman who valued a commitment to her community and to providing opportunity to those who lacked the resources to access it.